

## *The Last Abortion Clinic* Teacher's Guide

### **ABOUT THE FILM:**

More than 30 years after the United States Supreme Court legalized abortion, Americans, their legislators and courts are still struggling with this polarizing and difficult issue. In *The Last Abortion Clinic*, FRONTLINE explores successful efforts by pro-life advocates to lobby for and help pass state legislation restricting access to abortion. The program examines the successes of the pro-life movement and touches upon the age-old balance between state and federal authority over Americans' lives.

### **WATCHING THE FILM:**

Teachers should preview *The Last Abortion Clinic* before sharing it with the class. If time permits, teachers can use this 60-minute film in class or it can be assigned for viewing as homework. Discussion questions and appropriate classroom activities are provided in this guide and can be used with or without the film.

### **A NOTE TO TEACHERS:**

For classes in U.S. History, Civics, Government, Language Arts, Current Events, Women's Studies. Grade levels 9-12.

Because the contemporary debate over abortion often overlaps with religion, this may be a sensitive topic for the classroom. This guide avoids issues and questions of morality and focuses on the *legal* framework concerning abortion and the restriction of abortion. The PBS Program, *Avoiding Armageddon: Our Future, Our Choice* offers **practical tips** [[http://www.pbs.org/avoidingarmageddon/getInvolved/involved\\_02\\_04.html](http://www.pbs.org/avoidingarmageddon/getInvolved/involved_02_04.html)] for encouraging open participation of polarizing issues.

Teachers should understand that this guide does not offer strategies for facilitating a debate about whether abortion *should* be legal, but rather it allows students to understand the role of the Supreme Court, the Constitution and the states in determining the laws of the United States of America.

### **PREVIEWING ACTIVITY:**

#### **Checks and Balances on Abortion**

An introduction to the issues

### **DISCUSSION QUESTIONS:**

A list of questions to trigger class discussion before the film

### **FEATURED LESSON PLAN:**

#### **Key Constitutional Issues of the Abortion Debate**

Students will become familiar with:

- How a strict or loose interpretation of the Constitution influences the abortion debate
- Key issues that fall within the purview of federal protection vs. those granted to the states by virtue of the 10th Amendment

## **ADDITIONAL LESSON IDEAS:**

### **Where Is the Right to Privacy?**

Students will learn how the Constitution was loosely interpreted to include a "right to privacy."

### **Where Do Your Representatives Stand?**

Students will research their elected officials' positions on abortion.

### **Case Law on Abortion: The Last 40 Years**

Students will examine key U.S. Supreme Court cases that have pertained to the expansion or restriction of abortion rights.

## **ADDITIONAL RESOURCES**

An annotated list of relevant Web sites, books and articles.

### **Purchasing the Film**

*The Last Abortion Clinic* can be purchased from **Shop PBS for Teachers**.

[<http://teacher.shop.pbs.org/home/index.jsp>]

Also, teachers and students can watch the film streamed in its entirety on FRONTLINE's

Web site: <http://www.pbs.org/frontline/clinic>

### **Credits**

This teacher's guide was developed by Simone Bloom Nathan of Media Education Consultants. It was written by Debra Plafker Gutt, Stuyvesant High School, New York. Advisers were Ellen Greenblatt of University High School, San Francisco and Patricia Grimmer, Carbondale High School, Carbondale, Ill.

## **PREVIEWING ACTIVITY**

### **Checks and Balances on Abortion**

#### **Lesson Objective:**

Students will become familiar with government concepts such as federalism, the role of the U.S. Supreme Court in arbitrating conflicts, and the selection of nominees to the U.S. Supreme Court.

#### **Materials Needed:**

Copies of "**Law Bingo**" board for each student

#### **Time Needed:**

20 minutes

#### **Procedure:**

1. Divide students into groups of four to six and distribute copies of the "**Law Bingo**" board to each group.
2. Using the **questions** provided, the teacher will call out a question, one at a time. The teacher will wait as students, in their groups, discuss the possible match. When students find the matching answer to each question, they will write the question and its number in the matching box. (For example, students find the box which reads "a system where lawmaking is shared between the states and the national government" and write "#1- What is Federalism?")
3. When the first group has three matched boxes across, down, or diagonally, the group will yell "BINGO!" The winning group will read off their three matches. The teacher can either finish calling out the remaining questions, have the class provide the appropriate matches, or begin a class discussion.

**STUDENT HANDOUT:  
"Law Bingo"**

Directions: Listen carefully to your teacher's questions. Match the question with the appropriate box and write the question and question number underneath the answer. When you have three boxes across, down or diagonally, yell "Bingo!"

<b>LAW BINGO</b>	<b>LAW BINGO</b>	<b>LAW BINGO</b>
<i>Marbury v. Madison</i> (1803)	The legislature	The judiciary
System of balancing power between the states and the national government	The former Chief Justice of the Supreme Court	The power of the judicial branch to declare laws "unconstitutional"
The current Chief Justice of the Supreme Court	The president	<i>Roe v. Wade</i> (1973)

**Teacher's Questions for "Law Bingo":**

Read the following questions to the class in any order:

- 1) Which part of the government nominates Supreme Court justices?
- 2) Which Supreme Court case established the concept of "judicial review"?
- 3) What is federalism?
- 4) Which part of the government confirms Supreme Court nominees?
- 5) What is "judicial review"?
- 6) Who was William Rehnquist?
- 7) Which Supreme Court case legalized abortion?
- 8) Who is John Roberts?
- 9) Which part of the government resolves conflicts over state and national law?

(Copy of students' "Law Bingo" board)

<b>Law Bingo</b>	<b>Law Bingo</b>	<b>Law Bingo</b>
<i>Marbury v. Madison</i> (1803)	The legislature	The judiciary
System of balancing power between the states and national government	The former Chief Justice of the Supreme Court	The power of the judicial branch to declare laws "unconstitutional"
The current Chief Justice of the Supreme Court	The president	<i>Roe v. Wade</i> (1973)

## DISCUSSION QUESTIONS

1. What is federalism?

Teacher's notes:

- The framers of our Constitution created a federal system with two separate levels of government. Since the Constitutional Convention in the 18th century, Americans have safeguarded against a federal government that is too powerful.
- The Constitution negotiates a balance of power between the states and the national government; sometimes power is shared, and other times it is specifically delegated to one level over the other.

2. Why might laws vary from state to state in terms of the range of abortion laws and restrictions across the country? What happens if a state law conflicts with a federal law?

Teacher's notes:

- In state legislatures, representatives will pass laws that are important to their constituents -- the voters in their state.
- Some states allow their voters to directly weigh in on important issues with ballot measures such as initiatives or referenda, where each voter can support or oppose proposals that they want to see addressed by the state legislators.
- Recent ballot measures pertaining to the abortion debate include: parental notification for minors and mandatory waiting periods before obtaining an abortion. Teachers can find ballot measures from the 2004, 2002, 2000 and 1998 elections at [URL: [www.ballotwatch.org](http://www.ballotwatch.org)]
- If there is a conflict between state and federal law, the Supreme Court can have "original jurisdiction" over a case.

3. What process does the Constitution provide for the selection of United States Supreme Court justices?

Teacher's notes:

- While federalism is one way the framers created a balance of power, the separation of powers is another. In our system of checks and balances, the executive, legislative and judicial branches are independent of each other and interdependent.
- Supreme Court justices, who are appointed for life, are nominated by the president. The Senate Judiciary Committee holds hearings and has the opportunity to ask the nominees about their legal perspectives and experiences. After an affirmative vote by the 18-member committee, the entire Senate holds a vote to confirm or reject the nominee.
- Teachers may want to discuss recent Supreme Court nominations to illustrate the nomination process.

A lesson about the process of confirming a Supreme Court justice is available at:

*The NewsHour with Jim Lehrer*

**[http://www.pbs.org/newshour/extra/teachers/lessonplans/socialstudies/confirm2\\_7-20.html](http://www.pbs.org/newshour/extra/teachers/lessonplans/socialstudies/confirm2_7-20.html)**

4. What kinds of factors might a president consider when selecting nominees? What factors might be important to President Bush in his nominations?

Teacher's notes:

- By nominating a Supreme Court justice, a president can have the opportunity to leave his/her mark on the high court for decades.
- Presidents try to nominate jurists who share their ideology but there is no guarantee for ensuring this. For example, President Eisenhower, a conservative, professed that his worst mistake was nominating Earl Warren to the Supreme Court. Chief Justice Warren presided over one of the most liberal courts in our nation's history.
- President Bush has expressed that he will not impose a "litmus test" on his judicial nominees. He has also stated that he admires Justices Scalia and Thomas for their strict interpretation of the Constitution.

## LESSON PLAN

### Key Constitutional Issues of the Abortion Debate

#### Lesson Objective:

Students will:

- Understand the balance of power that is at the heart of our federalist system
- Evaluate which level of government -- state or national -- should have authority over social and legal issues

#### Materials Needed:

Copies of Discussion Questions

Copies of the Student Handout: "Who Should Decide What?"

#### Time Needed:

10 to 20 minutes for class discussion

40 minutes for the classroom activity

#### Procedure:

Step 1:

The teacher writes the 10th Amendment on the board and conducts a class discussion.

*"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."*

10th Amendment, United States Constitution

#### Discussion Questions:

1. Why do you think the framers of the Constitution included this amendment in the Bill of Rights? What were their concerns?

Teacher's notes:

- After their negative experiences under British control, many Americans were concerned about creating a national government that was too powerful.
- Differences about the size and role of the federal government created a lot of conflict over the Constitution. The anti-Federalists insisted on enumerated protections (the Bill of Rights) to limit the national government.

2. In your own words, what does this amendment protect?
3. What powers do you know of that are *solely* delegated to the national government?

Teacher's notes:

- A Venn diagram of two overlapping circles on the chalkboard can help to illustrate separate vs. shared powers.
- Federal powers include: the power to coin money; regulating *interstate* or foreign commerce; making treaties; declaring war; regulating the post office.

4. How do we know that these powers are delegated to the national government?

Teacher's notes:

- They are enumerated in the Constitution.



5. What powers do you know of that are "reserved" to the states?  
Teacher's notes:
  - Powers delegated to the states include: education; *intrastate* commerce; licenses for driving, the professions, and marriage.
6. What powers are *shared* between the federal and state governments?  
Teacher's notes:
  - Shared powers include: taxes; enforcement of laws; protection.
7. Think about how much society has changed since the framers ratified the Constitution in the 18th century. What issues exist in our society today that the framers did not designate as a federal power, a state power or a shared power?  
Teacher's notes:
  - Responses should be as exhaustive as possible. Encourage students to think about their own lives. For example, if they are taking a driving exam, which level of government administers it? If you are driving through several states, does the speed limit change?

Step 2:

1. Divide the class into groups of four to six students and distribute the "Who Should Decide What?" list.
2. Assign half of the groups to create arguments that *states* should have authority over particular issues and assign the other half to create arguments that authority should rest with the *federal* government. Remind students to avoid debates about whether or not these behaviors *should* be legal. Topics they will discuss include: the driving age, the drinking age, euthanasia, marriage, the death penalty, marijuana for medical use, and abortion.
3. After 10 to 15 minutes of preparation, reconvene as a class. Call out an issue from the "Who Should Decide What?" list. Still in either state or federal character, the groups will debate with each other. After three minutes, call out another issue. Continue working your way down the list.

Step 3:

As a final activity, invite students to be themselves. Again, go through the "Who Should Decide What?" list and conduct a hand vote for each issue as to whether it falls under state or federal authority. (Now students can vote according to their personal opinions.) The last vote should concern abortion. Finally, encourage students who have seen the film to think about *The Last Abortion Clinic*. After voting, elicit class responses as to whether the states or the federal government should determine the parameters and/or restrictions for abortion and why.

**Method of Assessment:**

Class Participation

**Extension:**

Students will take one debatable topic from the class activity for further research. Students will prepare a two page "brief" outlining how the federal government and state(s) government came into conflict over this issue and how it was resolved.

**STUDENT HANDOUT:  
Key Constitutional Issues of the Abortion Debate  
Discussion Questions**

*"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."*

10th Amendment, United States Constitution

Why do you think the framers of the Constitution included this amendment in the Bill of Rights? What were their concerns?

In your own words, what does this amendment protect?

What powers do you know of that are *solely* delegated to the national government?

How do we know that these powers are delegated to the national government?

What powers do you know of that are "reserved" to the states?

What powers are *shared* between the federal and state governments?

Think about how much society has changed since the framers ratified the Constitution in the 18th century. What issues exist in our society today that the framers did not designate as a federal power, a state power or a shared power?

**STUDENT HANDOUT:**  
**Key Constitutional Issues of the Abortion Debate**  
**"Who Should Decide What?"**

*"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."*

10th Amendment, United States Constitution

1. *Driving Age* ( ) Federal authority ( ) State authority  
Argument #1

Vote:

Argument #2

2. *Drinking Age* ( ) Federal authority ( ) State authority  
Argument #1

Vote:

Argument #2

3. *Euthanasia/  
Assisted Suicide* ( ) Federal authority ( ) State authority  
Argument #1

Vote:

Argument #2

4. *Marriage* ( ) Federal authority ( ) State authority  
Argument #1

Vote:

Argument #2

5. *Death Penalty* ( ) Federal authority ( ) State authority Vote:  
Argument #1

Argument #2

6. *Marijuana for Medical Use* ( ) Federal authority ( ) State authority  
Argument #1

Vote:

Argument #2

7. *Abortion* ( ) Federal authority ( ) State authority  
Argument #1

Vote:

Argument #2

## **ADDITIONAL LESSON IDEAS**

### **Where Is The "Right to Privacy?"**

Students will examine the U.S. Constitution and understand the "penumbra" (or imprecise) nature of the "right to privacy" by attempting to locate this right in the actual amendments to the Constitution. Failing to do so, students will hypothesize which rights from the Bill of Rights and the 14th Amendment *suggest* the "right to privacy." They will then read excerpts from Justice Douglas' **majority opinion**

[<http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/griswold.html>] in *Griswold v. Connecticut* (1963) and compare their hypotheses to how the Supreme Court defined a "right to privacy."

### **Where Do Your Representatives Stand?**

Students will create a list of their elected officials including their mayor, state senators and/or assembly members, governor, U.S. representative and U.S. senators. Students will then research whether each of these elected official support or oppose abortion. Students will discuss whether the politicians' views reflect their constituents' views on the issue of abortion.

### **Case Law on Abortion: The Last 40 Years**

Students will explore U.S. Supreme Court cases that pertain to abortion to better understand the expansion and restriction concerning this issue. Students can examine the geography behind state laws as well as whether the court's ruling was unanimous or divided. Seven major Supreme Court abortion cases are detailed on the FRONTLINE Web site for *The Last Abortion Clinic*; the Web site [www.oyez.com](http://www.oyez.com) is a good resource for students to find other relevant cases.

## **ADDITIONAL RESOURCES**

### *A Note about Internet Resources*

Students need to be aware that Web sites sometimes present only one view of an issue. Encourage them to think about Web sites even as they are reading. Guiding questions as they review Web sites are: What to did you learn from this site? What didn't you learn from this site? Who sponsors this site? What bias might the sponsor have? How current is the site?

## **WEB SITES**

### ***The Last Abortion Clinic***

<http://www.pbs.org/wgbh/pages/frontline/clinic>

The companion Web site to the FRONTLINE documentary provides extended interviews with direct participants in the story, analysis of significant issues, frequently asked questions, readings and links.

### **Legal Information Institute**

[http://straylight.law.cornell.edu/supct/cases/topics/tog\\_abortion.html](http://straylight.law.cornell.edu/supct/cases/topics/tog_abortion.html)

Although this site is maintained by Cornell University's law school, it is accessible to high school learners. Organized alphabetically by topic, researchers can access relevant case law.

### **FRONTLINE: *Abortion Clinic***

<http://www.pbs.org/wgbh/pages/frontline/twenty/watch/abortion.html>

Originally aired in 1983, this provocative program documents an abortion clinic in Chester, Penn. Visitors to this site are able to watch the documentary in segments, including the experiences of two women as they prepare for and undergo abortions.

### **Abortion History -- United States -- Abortion Controversy**

<http://womenshistory.about.com/od/abortionus/>

This site provides a broad range of links to information about the history of abortion in the U.S. There is a strong focus on how this issue has come to be such a controversial subject in American society.

### **Constitutional Rights Foundation**

[http://www.crf-usa.org/bria/bria14\\_2.html](http://www.crf-usa.org/bria/bria14_2.html)

Teachers can find lessons that deal with the independence of the judiciary branch. Topics include: "An Issue of Consent," "Voters and Judges" and "An Independent Judiciary."

### **Oyez**

<http://www.oyez.com>

Created by Northwestern University, Oyez provides information about the history of the Supreme Court, biographies of all Supreme Court Justices and brief descriptions of case law. The site, easy for high school students to use, provides an alphabetical listing of cases sorted by subject. Students can read the basic facts involved in a case, critical question that each case poses, the decision, who voted for it, and a brief summary of the majority opinion. For some cases, it also has audio of the oral arguments.

### **Books**

#### ***The Abortion Rights Controversy in America: A Legal Reader***

Edited by N.E.H. Hull, William James Hoffer and Peter Charles Hoffer

Published in 2004, this is a compendium of primary sources related to the abortion controversy. The editors, who are also law professors, have collected relevant briefs, news articles, statutes and first person accounts with a strong focus on the development of abortion law in the 1990s.

#### ***Opposing Viewpoints Series – Abortion***

Edited by James D. Torr

The "Opposing Viewpoints Series" is an excellent resource for high school students who are researching controversial topics. Viewpoints in the "abortion" book include "Is Abortion Immoral?" "How Does Abortion Affect Women?" and "Should Abortion Rights Be Restricted?"

### **Articles**

#### ***Abortion: Just the Data -- With High-Court Debate Brewing, New Report Shows Procedure's Numbers Down***

<http://www.washingtonpost.com/wp-dyn/content/article/2005/07/18/AR2005071801164.html>

This Washington Post article by Naseem Sowti offers a demographic snapshot about how many abortions are being performed in the U.S. and who is obtaining them.

#### ***A New Federal Move to Limit Teen Abortion***

<http://www.csmonitor.com/2005/0427/p01s02-uspo.html>

In this *Christian Science Monitor* article Linda Feldmann reports on Congress' latest abortion related legislation. The Child Interstate Abortion Notification Act, or CIANA, makes it a crime to transport a minor across state lines to obtain an abortion.

#### ***Abortion Wars***

<http://www.msnbc.msn.com/id/4733090>

In this *Newsweek* Web article, Sarah Childress chronicles the efforts of pro-life organizations as they mobilize in their fight against legal abortion.